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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,830	11/16/2001	Michael Nicholas Tofinetti	12197-US	7659
23553	7590	11/29/2005	EXAMINER	
MARKS & CLERK			FERRIS, DERRICK W	
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STATION B			PAPER NUMBER	
OTTAWA, ON K1P 5S7			2663	
CANADA			DATE MAILED: 11/29/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. ^U

09/987,830

Applicant(s)

TOFINETTI ET AL.

Examiner

Derrick W. Ferris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 6-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 21-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of **claims 1-5** in the reply filed on 9/16/2005 is acknowledged. As such, claims 1-5 and newly added claims 21-28 remain pending. The traversal is on the ground(s) that the restriction does not require further reconsideration and/or search. This is not found persuasive because no evidence was given by applicant (i.e., applicant provided a statement of opinion) and the evidence provided by the examiner in the original restriction is still valid. However, the point appears to be moot since the recasting of the canceled claims are in a similar format to that of group 1.

The requirement is still deemed proper and is therefore made FINAL.

Claim Objections

2. **Claims 22 and 23** are objected to because of the following informalities: claim 22 depends on claim 6 which was withdrawn. For the purpose of the rejection, the examiner assumes claim 22 should depend on claim 21 and not claim 6. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-5, 21-23, 27 and 28** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application 2002/0165961 A1 to *Everdell et al.* ("*Everdell*").

As to **claim 1**, see e.g., figure 5H of *Everdell* with respect to a first body of connectivity information. In particular, each port can be configured as either channelized or unchannelized, see e.g., figures 5c, 5d, 5e and 5f (e.g., an unchannelized is connection is a concatenated connection such as OC-3c). Once a determination is made on how to configure the channel type, paths are further configured for the port. As such, the virtual channel specification using a reasonable but broad interpretation in view of applicant's specification is the position and width information shown e.g., in figures 5c, 5d, 5e and 5f, see e.g., paragraphs 0198 and 0199 on page 15. The display interface is the GUI shown in the figures. Although ATM is shown as the service type, the reference also teaches that IP can be implemented thus teaching POS, see e.g., paragraph 0228 on page 19 and paragraph 0429 on page 43.

As to **claim 2**, the data link record is the path record. The data link record can also be the ATM information (or IP information), see also e.g., figure 5i.

As to **claim 3**, the nodal data link records are the paths links where a network node can be represented by either the Path Name or the Ingress/Egress connection, see e.g., paragraph 0209 on page 17.

As to **claim 4**, see similar rejection to claim 3 where the Egress connection is the terminator.

As to **claim 5**, see similar rejection to claim 1.

As to **claim 21**, see similar rejection to claim 1.

As to **claim 22**, see similar rejection to claim 1.

As to **claim 23**, the data link termination icon is the egress connection tab.

As to **claim 27**, see similar rejection to claim 3.

As to **claim 28**, the transport capacity is taught e.g., as the path width.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 24-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application 2002/0165961 A1 to *Everdell et al.* ("*Everdell*") in view of U.S. Patent No. 2004/0015309 A1 to *Swisher et al.* ("*Swisher*").

As such to **claim 24-26**, *Everdell* discloses limitations in the parent claim.

Everdell may be silent or deficient to the further limitation of a data-link between two nodes. In particular, *Everdell* teaches displaying a schematic representation of a first data network node and a second data network node but may not clearly teach along with the schematic representation of the data-link there-between.

Swisher teaches the further recited limitation above at e.g., figures 90-92 and page 15. For example, figure 90 teaches that it is well known in the art to display two end nodes with a data-link there-between.

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The proposed modification of the above-applied reference(s) necessary to arrive at the claimed subject matter would be to modify *Everdell* by including the limitation above.

As such, examiner notes that it would have been obvious to one skilled in the art prior to applicant's invention to include the above limitation. In particular, the motivation for modifying the reference or to combine the reference teachings would be to display the transport medium of a network topology. In particular, *Everdell* cures the above-cited deficiency by providing a motivation found at e.g., paragraph 0171 on page 15. Thus the references teach the above claim limitation(s).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (571) 272-3123. The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571)272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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DWF

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Examiner
Art Unit 2663



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PATENT EXAMINER